BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. ANAHEIM ELEMENTARY SCHOOL DISTRICT.	OAH Case No. 2018070654 ORDER DENYING MOTION TO COMPEL DISCOVERY

On August 23, 2018, Student filed a Motion to Compel Discovery with the Office of Administrative Hearings. On August 23, 2018, Anaheim Elementary School District filed an Opposition to Student's Motion to Compel Discovery.

Student contends Anaheim has refused Parent's repeated requests for production of documents pertaining to the Request for Due Process Hearing, and the opportunity to review Student's file. Anaheim contends it has provided numerous opportunities for Parent to review Student's educational records and to receive copies of such records, but Parent has not accepted the opportunities.

APPLICABLE LAW AND ANALYSIS

In special education due process hearings, parties have no right to formal prehearing discovery. However, the procedural safeguards of the Individuals with Disabilities Education Act, allow parents of a child with a disability the opportunity to examine all records relating to the child with respect to the identification, evaluation, and educational placement of the child; and the provision of a free appropriate public education to the child. (20 U.S.C. § 1415(b)(1); 34 C.F.R. § 300.501(a).) Additionally, the California Education Code allows parents the right to examine and receive copies of all school records related to the child within five business days after a request for records is made. (Ed. Code, § 56504.)

Parties to a special education due process hearing also have the right to receive, at least five business days prior to the hearing, a copy of all documents the other party intends to use as evidence at the hearing. (Ed. Code, § 56505, subd. (e)(7).)

Student's motion cites section 2019.010 of the California Code of Civil Procedure in support of its argument that a party has a right to discovery. However, Student's motion does not include any legal authority supporting the application of the Code of Civil Procedure to special education due process cases. Moreover, Student's motion does not attach any evidence to support its contention that Anaheim has refused its requests to

examine Student's records. To the contrary, in its opposition, Anaheim attaches multiple email and letter correspondence indicating its efforts to make Student's records available for Parent to review at a school site; as well as to provide a copy of the records to Parent if so desired.

Accordingly, Student's Motion to Compel Discovery is denied.

IT IS SO ORDERED.

DATE: August 24, 2018

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Tara Doss
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TARA DOSS
Administrative Law Judge
Office of Administrative Hearings